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HUMAN RIGHTS COMMITTEE

Sixty-first session

SUMMARY RECORD OF THE 1629th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 28 October 1997, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI

later: Ms. CHANET

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Second periodic report of the Sudan (continued)

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of the Sudan (continued) (CCPR/C/75/Add.2; CCPR/C/61/Q/SUD/3)

1. At the invitation of the Chairperson, Mr. El Mufti, Mr. El Radi and Mr. Mirghani (Sudan) took places at the Committee table.

2. The CHAIRPERSON invited the delegation of the Sudan to continue to reply to the questions raised by the Committee at the previous meeting.

3. Mr. EL MUFTI (Sudan) said that public order courts existed only in the State of Khartoum to deal with cases arising under the public order legislation of that State. Each of the remaining 26 States promulgated its own laws. The jurisdiction of public order courts was very limited. The judges were members of the regular judiciary and applied summary procedures because the courts tried petty offences.

4. The allegation that 18 persons had been executed following the trial of the participants in the attempted coup d'état in August 1996 was entirely unfounded. Nobody had been executed and the heaviest custodial sentence handed down had been 15 years' imprisonment.

5. All allegations regarding torture were systematically investigated, as confirmed in the latest report by the Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1997/58).

6. Political activities were not banned and people were completely free to exercise their political rights, as attested by the elections held in 1996. Political parties as such were banned but even that prohibition was under review by constitutional committees. Criminal charges had not been filed by the Political Bureau. It had considered the possibility but no charges had been filed officially and no trial was expected.

7. The People's Defence Force provided support as and when necessary for the armed forces. Its members carried weapons only when they were sent to conflict areas to fight alongside the army but they never used them to keep the peace under normal circumstances. The Force was voluntary and its members were trained under the supervision of the armed forces. There was no conscription into any force for persons under the age of 18. Some secondary-school leavers had recently been sent to the southern region as part of their national service. But the Government had subsequently discovered that some of them were under age and 114 had been returned to their homes. On the other hand, it was well known that the southern faction led by John Garang had conscripted 20,000 youngsters under the age of 18.

8. There was separate personal status legislation for Muslims and non-Muslims in the Sudan. Sudanese Muslims were subject to Shariah law in areas such as marriage, divorce and inheritance, as was the case in many Muslim countries.

9. With regard to allegations of slavery and disappearances, all such cases had been investigated and the reports had been published and submitted to the relevant United Nations bodies.

10. The Declaration of Principles adopted by the Inter-Governmental Authority on Development in 1994 was a four-page document which he would make available to the Committee.

11. Information regarding the results of the forthcoming peace talks in Nairobi would be available in all embassies and missions of the Sudan.

12. With regard to the employment of women in the public sector, they were not confined to minor posts but held many high-ranking offices, for example Head of the Budget Division in the Ministry of Finance, three heads of department in the Ministry of Justice, the Registrar-General for Companies, three members of the Supreme Court, ambassadors and so forth.

13. The alleged immunity of security officers under the 1994 National Security Act was entirely procedural. If the authorities wished to take legal action against such officers, they must apply for permission. The same conditions applied to police officers, legal officers in the Ministry of Justice, lawyers and judges. There was no impunity and all specific allegations of torture and other kinds of wrongdoing by security officers had been investigated. In that connection, six police officers had recently been sentenced to execution.

14. With regard to the Islamic punishments for apostasy and other similar offences (known as hudud or qisas), they had not been invented by the Sudanese Government but were mandatory under a true interpretation of Islam, even if some Islamic countries were not applying them. In his view, they constituted a manifestation of freedom of religion. Application of the punishments was well organized and there were many safeguards to prevent invalid judgements. Under the Criminal Act of 1991, apostasy or the act of conversion was not punishable as such. But any manifestation of apostasy that threatened public order was punishable. As a general rule, the age of criminal responsibility was reached at puberty. Crucifixion was prescribed only for armed robbery resulting in rape or loss of life. It was not a mandatory penalty and nobody had ever been sentenced to crucifixion.

15. The Sudanese parliament had decided against abolition of the death penalty. The jurisprudential argument for its continued existence was that the death penalty was mandatory for certain offences under Islamic law. He noted in that connection that the Shariah was not applied in the southern region.

16. The Fourteenth Constitutional Decree had come into force in May 1997. Under that Decree and the Peace Agreement concluded in April 1997, a President of the High Executive Council for Southern Sudan had been appointed - Mr. Riek Machar, a member of one of the main southern factions. Following a four-year transitional period, a referendum on self-determination would be held.

17. The allegation of a five-year period of religious indoctrination in the People's Defence Force was baseless. Training was provided for both Muslim and Christian members of the Force and the interpretation of the concept of jihad or holy war in that connection was very limited. Its purpose was to resist aggression against the Government and not to fight infidels.

18. The claim by the Sudan Council of Churches that they had been denied permission to distribute food in camps of displaced persons was highly improbable since the Government itself had frequently appealed for international aid to deal with food shortages. Sometimes lack of coordination among NGOs resulted in such allegations.

19. Female genital mutilation was an offence but it was difficult to halt such traditional practices because the victims were reluctant to file an official complaint. The Government had therefore introduced social programmes to persuade people to abandon the practices.

20. Women were free to travel and it was not true that they must be accompanied by a female relative. Six Sudanese women had travelled to Geneva that very month on official United Nations business. It was deplorable that the image of the Sudan was being distorted by false reports of women being flogged and kept indoors. Under the Evidence Act a woman's testimony was acceptable except in minor cases mentioned in the Koran where their evidence carried less weight. In other cases, more weight was given to women's evidence in application of Islamic law and jurisprudence.

21. The general practice regarding marriageable age was that girls could marry once they reached the age of puberty. That age was not specified in existing legislation and there was no law permitting girls as young as 10 to marry. With regard to consent, custom required the father to inform the relevant parties of a girl's acceptance of a marriage proposal but her consent was mandatory. Otherwise the marriage contract was null and void.

22. Islamic personal status legislation did not stipulate that the husband should be given custody of the children in the event of divorce. The regime governing custody was complex and took into account such factors as whether the children were male or female, their age and the social status of the husband and wife. The family home was not automatically allocated to the husband. For example, in cases where a married couple had received a plot of land under the Government's land allocation scheme, the husband was not allowed to sell the land without the written consent of his wife.

23. The allegations regarding army attacks on villages in the Nuba mountains involving the enslavement of girls and the targeting of ethnic groups were untrue. The army was engaged in an armed conflict with rebels in the region and was not pursuing a policy of genocide. On the contrary, people were fleeing to government-controlled areas for security and food.

24. He had no precise information regarding the cases of Majdoline Haj-al-Tahir and Shihab Yousif but he recalled in connection with the latter that the police had intervened to halt chaotic demonstrations at Ahliya University in 1995. They had not used firearms and there had been no torture of those involved. He would try to obtain further information on both cases and report back to the Committee.

25. There were no trade unionists in detention. Just a few days previously, the Chairman of the Federation of Trade Unions had publicly threatened the Minister of Finance that a strike would be called to protest against the wage freeze due to be introduced in 1998. No action had been taken against him.

26. In his view, the use of the Shariah as a source of law for Muslims and customary law as a source for non-Muslims was the best option available. The authorities were prepared to consider other viable alternatives but any attempt to impose the will of the minority would simply lead to further conflict. The existing approach had actually been accepted by all the rebel factions.

27. The authorities were not pursuing a policy of Islamization and Arabization, but the fact was that the majority of the population were of Islamic and Arab culture if not of ethnic affiliation. The Government had acknowledged that the Sudan was a multicultural, multi-ethnic and multi-religious society.

28. The National Security Council, chaired by the President of the Republic, had authority to extend detention for three months but such decisions were subject to judicial review and could be challenged before the courts. Any safeguards omitted from the National Security Act itself had been included in its implementing regulation and similar safeguards were contained in the Civil Procedures Act.

29. The Government had launched a scheme whereby street children were transferred to a social welfare camp with education and rehabilitation facilities while their family was being traced. But in response to accusations of Islamization and indoctrination, the camp had been closed down and replaced by a centre near Khartoum which was run in accordance with advice on how best to deal with the problem and achieve family reunification.

30. The Engineering Faculty in the University of Khartoum was not reserved for men and neither was any other faculty in that university. However, there were 13 faculties reserved for women in the Islamic University of Omdurman. When the Government had assumed power, there had been only about five higher education establishments in the Sudan. There were currently over 25 and the student population had increased by a factor of 600.

31. Mr. Bhagwati took the Chair.

32. Mr. EL RADI (Sudan) said that if those affiliated with the public order courts, which dealt with petty offences, had on some occasions been guilty of ill-treatment of alleged offenders, they had been implementing the law in an erroneous manner. In any police or security force, there were people who failed to obey the rules and in most cases they were punished. The entire force could not be held responsible for their conduct. He had recently been involved in a discussion with police, army and security personnel on their constitutional role and had warned senior security officers that the image of their forces had been tarnished in the eyes of the people by the behaviour of certain officers. He had urged them to train all personnel, particularly new recruits, in proper methods of law enforcement which preserved human rights and dignity.

33. He had served as the leading defence counsel at the trial by court martial of 31 persons in connection with the attempted coup d'état. Some were civilians and some members of the military. The trial had taken place in military premises but 22 defence lawyers had served on behalf of the accused, many of whom had required legal aid. The defence had been accorded the right to object, to file petitions and to appeal and had been provided with all necessary facilities. None of the 31 had been executed; 12 had been released; 10 had received mild sentences of from one to six months' imprisonment; others had been sentenced to between one and three years' imprisonment and the ringleader had been sentenced to 15 years. He, Mr. El Radi, had also been in close contact with legal counsel in the Port Sudan trial case and was sure that nobody had been executed on that occasion either.

34. Female genital mutilation was unfortunately an entrenched custom, particularly in isolated areas where people were ignorant and illiterate. In such cases it was extremely difficult to enforce the law. What was needed was enlightenment and guidance, and that was what the Government's policy was designed to achieve. Moreover, there were more and more trained midwives who knew that they were liable to prosecution for involvement in such practices. His own daughter was not circumcized and neither were the daughters of many of his friends. Although he had no figures, he was certain that the practice was currently less widespread and would eventually be eradicated.

35. The issue had again been raised of the possible trial of certain people in absentia. There had been a suggestion, reported in the press, that that should be done, but persons familiar with the law had found the idea absurd and contrary to due process, and the trial in question had not taken place.

36. A question had also been asked about children alleged to have been kidnapped in the mountains with a view to their conversion to Islam. He assured the Committee that anyone who would do such a thing knew nothing about Islam. The Koran, which he quoted, made it quite clear that a person embracing Islam must do so of his own volition and not be forced into it.

37. In response to the questions about democracy and political parties in the Sudan, he said that the current Sudanese vision of democracy was that it meant the widest possible shaping and sharing of human values, leading to the widest possible participation in policy and decision-making. The Sudan had experience with political parties and elections. What was currently taking place, however, differed from the system in the West. A system of conferences had been introduced, similar to that in Libya but with some substantial differences, and thought was now being given to blending the good aspects of the two systems, multiparty democracy and the conferences. Much discussion was going on among specialists and an effort was being made to build something that would be purely Sudanese, without losing sight of the basic idea of persuasion rather than coercion as the instrument of power. The result remained to be seen and he hoped one day to be able to present the conclusions of his fellow scholars to the Committee.

38. The suggestion that women in Sudan were unable to travel or to appear in public was ridiculous. Women worked in all kinds of jobs and were free to travel. There might be certain cases where, for security purposes, a woman

might be asked why and with whom she was travelling, but that was not the general rule. His own daughter had travelled alone to the United States, unaccompanied by any male relative.

39. The issue of Islamic offences and sanctions seemed to loom very large in the mind of the Committee. He was himself writing a book on that topic, and in the course of his researches he had found that the sanctions for those offences were in most cases hedged by legal impediments. The rules of evidence were so stringent that it was almost impossible to prove an offence. Members had perhaps read about the indiscriminate application of such sanctions as whipping, amputation and even crucifixion under the regime of General Nimeri. Since then, many scholars, both western and Muslim, had subjected those cases to close legal analysis and it had turned out that nearly all of them had been badly tried. They served in fact to demonstrate how Islamic law should not be tried. Since then, a remarkable departure could be traced from the earlier system. To convey the legal position, he read an extract from his manuscript, to the effect that the Sudanese experiments of 1983 were worth analysing in order to demonstrate precisely how Islamic punitive law should not be applied. Eight cases were studied in detail in his book in order to illustrate the new trend. He believed that the Sudanese courts were now on the right track. From his own studies of Islamic law, he had concluded that apostasy, for example, was not a hadd offence. A person could change his religion, provided he did so without causing a danger to the State or to the public welfare. If that line was crossed, he could be prosecuted. Thus, the offence became more like high treason, which was recognized as punishable all over the world. He had analysed other offences closely and concluded, as an Islamic academician, that the drinking of intoxicating liquor was not a hadd offence either. On the question of jihad, or holy war, the consensus of opinion in Islamic jurisprudence was that its purpose was self-defence, forcible conversion to Islam. Conversion was to be achieved through convincing argument, not by the sword.

40. In conclusion, he said it was clear from the statements made that the Committee needed more information and also that a message needed to be conveyed to the Government regarding all the questions that had been asked. He assured the Committee that further information would be provided and that the Government would be told of all the points that had been raised. He would note, however, that not all the sources of the accusations made had been revealed. Out of fairness, the delegation should be told where those accusations came from. It would be its duty on returning to the Sudan to investigate the allegations and, if they were found to be true, to see that there was an appropriate response. If they were found to be untrue, as in the case of the alleged executions after an attempted coup d'état, the Committee would be so informed.

41. The CHAIRPERSON invited the members of the Committee to address additional questions to the delegation.

42. Ms. EVATT said that she had follow-up questions about certain matters which had not been fully and precisely dealt with. First, what were the conditions which a woman who was not a government official must fulfil in order to obtain an exit visa? She had been given documented instances of women who had been refused visas or, even holding a visa, prevented from

leaving the country. Secondly, what was the legal minimum age of marriage for females and males? Thirdly, could a woman marry without the consent of a guardian and, if so, in what circumstances? She noted that there had been no response regarding the incident on 23 August 1997 in which several female university students had been arrested by the public order police and sentenced to whipping. She asked whether the law prohibiting genital mutilation had ever been enforced and what role midwives played in ensuring compliance with it. She would also welcome an explanation of how direct democracy could be effective in a community which the Sudanese delegation itself had described as ignorant and illiterate.

43. Mr. BUERGENTHAL said that he had received no answer to his question about the demolition of the Catholic Centre at Dorushab. According to the report of the Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1997/58), that religious school, attended by 650 boys and girls, had been completely destroyed. What action did the Government intend to take to undo that wrong if the allegation was correct?

44. Mr. KRETZMER said that his question about the procedure of the committee set up to investigate the allegations regarding slavery in the Sudan (para. 96 of the report), and the conclusions reached by that body, had not been answered.

45. Mr. POCAR noted that the delegation had told the Committee that prior permission from the Government or a senior official was needed in order to investigate an offence of which a public official was suspected. The delegation had minimized the importance of the requirement and described it as purely procedural. If that permission was denied, could the matter still be investigated?

46. Mr. PRADO VALLEJO said that his questions about the existence of political parties and freedom of expression, as well as the number of persons held incommunicado by the security police, had been left unanswered.

47. Mr. EL MUFTI (Sudan) apologized for any omissions in the delegation's responses. He would do his best to answer the supplementary questions from his own notes. First, there were no special requirements for women with regard to exit visas. Permission to leave could sometimes be denied for security reasons, as in the case of men. Regarding the minimum age for marriage, he explained again that all personal matters in respect of Muslims were covered by the Personal Status Act. No specific age was mentioned in the statute and there were many different schools of thought in that respect, leaving the age limit very flexible.

48. The allegation regarding the female university students was unfortunately true. The security police had in fact arrested a number of women students and taken them to their headquarters, where some of them had been whipped for wearing obscene garments. The case was being investigated but had not yet been concluded. He had been informed that there was some question of a deliberate challenge to the security police. Some of the women had worn what were known as "Abolition of Shariah dresses" with a view to provoking a confrontation. The investigation was continuing.

49. With regard to the law prohibiting female circumcision, government action was concentrating on educational and social means of eradicating the traditional practice, rather than on criminal prosecution.

50. In response to the question about direct democracy, he said that under direct democracy all citizens had the right to vote for their representatives. The former political parties in the Sudan had often been religiously or ethnically based and not in themselves democratically organized. An effort was being made to find a middle path between direct and multiparty democracy.

51. In response to the question whether women could marry without the consent of a guardian, he recalled that the consent of the woman herself was required for a valid marriage. Traditionally, that consent was communicated through an elderly male relative, with whom the marriage contract was negotiated.

52. Regarding the demolition of the religious school in the Dorushab area of Khartoum, he said that there had been other instances of the destruction of places of worship on the grounds of town planning requirements. The Catholic Centre at Dorushab was not the first case: many more Muslim places of worship had been destroyed, the reason being that all of them had been built without a licence. Often, they were in an unsuitable location, such as the middle of the road, and the city council had tried offering comparable sites close by and, indeed, had offered to construct permanent buildings in their place. When, after notice of several months, the religious communities had refused to move, the premises had been demolished. Much concern had been aroused and the power to order such demolitions had now been taken from local councils and given to the Federal Ministry for Social Welfare. The unfortunate incident referred to was not directed against Christians and had nothing to do with religious intolerance. He was acquainted with the case and knew that the offer of a better site had been refused.

53. Responding to the questions on slavery, he said the findings of the investigation committee remained open-ended because allegations were still being received. The allegations concerned not slavery but a traditional practice in western Sudan. Tribes had always competed over grazing areas there, and captives were taken as a way of winning those areas; they were subsequently exchanged between tribes, sometimes for money. The Government was seeking to achieve social reconciliation by intervening to release any captives taken on either side, for such actions were prohibited by legislation. It was also trying to maintain a permanent armed presence, though the vast size of the areas concerned made that difficult.

54. The allegations had originated in late 1995, when an NGO had created a sensation by showing on television scenes of people being sold for money. That action had been part of a political campaign. His Government had challenged the organization to bring forward at least one person who claimed to have been sold into slavery. Only two weeks before, a group of Members of Parliament from the United Kingdom had travelled to western Sudan to investigate the allegations and had found them to be untrue. The Sudan Foundation in London, a national institution concerned with human rights, had called for a public debate on the allegations of slavery and had issued a report as recently as September 1997, which he could make available to the

Committee. The Government had extended an official invitation to the chairperson/rapporteur of the Working Group on Contemporary Forms of Slavery to visit the Sudan, and it was open to any visits to the country for the purpose of investigating charges of slavery.

55. Concerning impunity, he said it was widely recognized as legitimate because leaving police officers open to criminal charges would discourage them from doing their job properly: criminals and terrorists might exploit the opportunity to press charges. As to what happened if permission to file a criminal charge against a law enforcement officer was requested and refused, he said there had never been such a case, but if permission was ever refused, the possibility of judicial review existed. The permission requirement existed only as a safeguard, to ensure that the motivation for the charges was genuine and that criminals did not capitalize on the procedure to avoid being prosecuted. The fact that six police officers, some of them holding high rank, had recently been executed indicated that the filing of criminal charges against such officers proceeded without impediment.

56. On political parties, he had already explained that they were not seen as undesirable per se: there was simply a concern to ensure that the undemocratic type of parties that had existed in the past did not re-emerge. Direct democracy had accordingly been chosen as the best political system.

57. Secret detention did not exist in his country. Three months before the President had released all political detainees with the exception of 30 or so because of suspicions that they might be involved in sabotage, and around 12 of those had already been freed. The cases of the others were now being processed and investigated with a view to determining whether to free them or prosecute them in the ordinary courts.

58. Mr. MIRGHANI (Sudan) said that it was a great honour for him, a specialist in international law and the human rights law, to address the Committee. He expressed his admiration for the Committee's efforts to preserve human rights and for its keen desire to receive facts and figures. He would endeavour to provide any factual information the Committee might request.

59. He had written a book containing a chapter on direct democracy in the Sudan, which could be compared to neo-republicanism in the United States and communitarianism in Europe. The objective was to make democracy into something more than just the deposit of a ballot in a box every few years: citizens should be involved on a day-to-day basis in decisions affecting their lives. The direct democracy system was designed to give people complete freedom for discussion of issues of concern to them and for proposing planning targets and to ensure accountability and transparency on the part of the Government. The system was based not on competition between parties, but on the search for consensus, in line with the time-honoured African model of conflict-resolution through free discussion, no matter how long it took.

60. He had been brought up in southern Sudan and was proud of its cultural system and of the courage and honesty of its people. He deeply regretted the impact of the civil war on their stability and devoutly wished for the achievement of peace so that their traditional system would be strengthened,

their voice would be heard and they would enter the twenty-first century with dignity. It was to be hoped that the upcoming peace negotiations in Nairobi would be a success: the Government had made every effort to ensure that they were. He had recently returned from a visit to the Nuba mountains to investigate allegations of slavery and wished to assure the Committee that nothing had been found to substantiate those allegations. Any member of the Committee who wished to visit the area would be entirely welcome to do so: his Government had nothing to hide.

61. The Sudan abided by the Covenant and gave it the highest priority. If mistakes occurred, they were acknowledged and punitive and disciplinary measures were adopted. The Government sought by every possible means to deal with the roots of problems. Education was a top priority: without it there would be no gender or minority equality. The country's 5 universities had grown to total 26 under his Government: one of them was doing a wonderful job in the Nuba mountains. Hard work was also being done on transport and communications, as the country was vast and modern techniques in such areas were essential. Since 1993, satellite access had been ensured, and telecommunications within the country and with foreign countries were much improved.

62. Under the federal system established in 1993, each region had been given its own government and parliament. Elections had been held only a month previously, and many of the successful candidates had not had the support of the Government, so it was clear that the electoral process was open and untrammelled. The federal system was flourishing and all groups enjoyed human rights and the right to participate in political life. The system had only been established a few years before, but its prospects for the future looked promising indeed.

63. He assured the Committee that his Government's commitment to human rights was shared by the majority of the Sudanese people. He was ready, along with other members of the delegation, to give the Committee any assistance it required in the completion of its honourable task.

64. Ms. Chanet resumed the Chair.

65. Mr. EL MUFTI (Sudan), turning to the questions in part II of the list of issues, said the answers to question 10 on liberty and security of the person had already been given; detainees enjoyed all the rights provided for in article 9 of the Covenant. Under question 11, on prison conditions, he wished to outline the latest measures adopted. In April 1997, the Advisory Council for Human Rights had established a permanent committee to visit prisons and places of detention and report back to the Council regularly. Concern about prison conditions had been intensified after the committee had submitted its first report, which had revealed that financial constraints had resulted in a deterioration of prison conditions. Efforts were being made to mobilize funding to bring such conditions up to an internationally-accepted level.

66. On question 12 concerning the independence of the judiciary, he noted that since the Government's accession to power in 1989, it had never sought to repeal or amend the Judiciary Act of 1986. The Government was deeply committed to the independence of the judiciary, which it thought was well

protected by the law in question, even though it had been promulgated under the multi-party system. According to the law, judges were appointed or dismissed by recommendation of the High Judicial Council to the Head of State. The Council was composed, inter alia, of the Chief Justice, two judges of the High Court and the Minister of Justice; 7 out of a total of 11 members were lawyers. Given the strict regime established under the law, he was surprised to hear remarks about political appointment of members of the judiciary. A minimum of 15 years' judicial experience was necessary for appointment to the courts of appeals, and for appointment to the High Court a minimum of 18 years' experience in the judiciary or the Ministry of Justice was necessary. The composition of the judiciary now was almost identical to what it had been under the preceding Government; allegations that his Government had replaced all members of the judiciary were thus unfounded.

67. Turning to question 13 on freedom of expression and participation in the conduct of public affairs, he said the relevant legislation established conditions almost identical to those envisaged in the Covenant. The decisions made by the National Press and Publications Council pursuant to the legislation and restrictions provided for under the Covenant were subject to judicial review. He had already referred to the recent case when the Council's decision to withdraw a newspaper's licence had been overturned by the court. The reality was thus that freedom of expression existed in the Sudan; members of the Committee would be convinced of that fact if they could acquire translations of the daily press.

68. On question 14, he said that under the Sudanese legal system once an international instrument was ratified, it became part of domestic law. The Covenant did have precedence over domestic legislation because the Sudan was a party to the 1969 Vienna Convention on the Law of Treaties.

69. On question 15, he said there was indeed public participation in the Advisory Council for Human Rights. Two national NGOs working in the field of human rights, the Sudanese Jurists' Union, the Bar Association and the Women's Union were represented on the Council. The Council had no mandate to investigate complaints but had developed a practice of doing so, because the Government accorded it a great deal of leeway. Since the chairman of the Council was the Minister of Justice, he was able to provide the Council with the ability to exercise investigatory powers, particularly in cases of disappearances. Other national human rights institutions also investigated complaints; they included the two national NGOs he had just mentioned, the Parliamentary Committee on Human Rights and the Office of the Legal Adviser to the Director of National Security.

70. Mr. KLEIN observed that the delegation's responses to the list of issues created the impression that there were no problems in the field of human rights, contrary to the information available to the Committee and the delegation's own initial acknowledgement of such problems.

71. His first specific question related to the compensation for victims of human rights violations which could be granted on the basis of sections 42 to 46 of the Criminal Act of 1991. Could compensation be obtained for all human rights violations, or only certain ones, such as violations of the right

to life, torture or arbitrary detention? What procedure - judicial, administrative or other - was required for the granting of such compensation? He requested statistics to show whether that recourse was often used.

72. A general discussion of democracy was not in keeping with the Committee's task, which was to monitor the implementation of human rights. In the context of article 19, the Committee had been told that no political activities were banned. If that was so, why did sections 107 and 108 of the Prison Regulations Act contain references to special rules for persons detained or accused for political reasons? That phrase suggested that the status of political prisoner was not unknown in the Sudan and he requested an explanation.

73. The report stated that any restrictions on freedom of the press and the mass media were imposed in order to guarantee the exercise of those freedoms. He agreed that rights often had to be accompanied by limitations and that the needs of the community had to be balanced against the exercise of individual rights. But article 5, paragraph 1, of the Covenant stipulated that any exceptions or limitations on human rights must not invalidate the exercise of those rights as such. The limitations on freedom of the press in the Sudan included the requirements of licensing and of registration of the names of all editors, journalists and printers. A great deal of material before the Committee showed that in practice national security interests were equated with the prohibition of criticism of the Government. The entire television and broadcasting system was under the monopolistic influence of the Government through the Ministry of Information. Article 20 of the Press and Printed Materials Act of 1993 established the National Press and Publications Council to supervise newspapers and all printed materials, but the Council itself was under the supervision of the Head of State, who appointed its members and chairman. All those factors added up to grave dangers for freedom of the press.

74. On freedom of movement, the delegation had said that there were almost no requirements for the issuing of an exit visa, except the imperatives of State security. The concept of State security was very broad, however, and he would like to know whether it was subject to judicial review. It appeared to offer an excellent tool for restricting and disciplining political opponents. According to material before the Committee, even if a person received an exit visa, he could not leave the country if he was on certain lists kept by the Ministry of the Interior or the Director of National Security. Restrictions on travel abroad thus appeared to be established not by law, but by list. He would like the delegation's comments on that point.

75. Mr. YALDEN, referring to the Advisory Council for Human Rights, said it was hard to see how a national human rights monitoring body could be independent when it was chaired by the Minister of Justice. He wished to know whether there was any independent agency in the Sudan that dealt with human rights complaints independently of the Government.

76. Ms. GAITAN DE POMBO thanked the delegation for the useful information it had provided and welcomed the Government's resolve to cooperate with United Nations human rights bodies and the International Committee of the Red Cross. In a situation of internal conflict, the question of the

compatibility of exceptional measures with the provisions of the Covenant arose with particular urgency. Failing a prompt resolution of the armed conflict, the Government should at least take steps to humanize the conflict and to protect women and children.

77. Referring to the role of the Advisory Council for Human Rights, she asked whether its proposals were binding upon the Government and whether they had any concrete impact on action taken by decision-making bodies.

78. Mr. BHAGWATI also expressed appreciation for the detailed answers given by the delegation and its assurance that the Government intended henceforth to admit any international body or special rapporteur appointed to investigate the human rights situation in the country. The delegation's readiness to admit the existence of problems and difficulties in the human rights field was particularly refreshing. The liberal interpretation apparently given in the Sudan to Islamic law deserved to be brought to the attention of people not only in countries where Islam was the majority religion but also elsewhere.

79. Associating himself with the questions raised by previous speakers, he wished to ask some additional questions on the subject of the independence of the judiciary. Was it true that 57 judges had been dismissed by the Government after the military coup of 1989 and that judges appointed after that date had been selected on the basis not of experience or academic standards but of other considerations? A committee was reported to have been set up in 1995 to review the dismissals, and he would like to know the results of its deliberations.

80. His second question related to monetary compensation for victims of human rights violations. Was there any law which allowed the family of a victim of human rights abuses to receive such compensation for death or injury? How many non-Muslim judges were there, particularly in the southern part of the country? And was their number proportionate to the population of the regions concerned? Lastly, was there any programme for training judges in human rights matters?

81. Mr. EL SHAFEI, referring to article 9 of the Covenant, said that many arrests of students, politicians and trade union leaders were reported to have taken place in January, June and July 1997 and asked whether it was true that more than 50 persons were still being detained. Some of the students were reported to have been ill-treated by the security forces. How was that compatible with the policy of pacification the Government was carrying out in the south of the country? Was dialogue with opposition leaders not a means of resolving the conflict? Referring to article 25, he said that following the recent parliamentary elections, opposition candidates were reported to have complained of not having been given opportunities equal to those of government candidates. Had the complaint been considered? And with what result?

82. Mr. KRETZMER said that he wished to ask a question under article 22 on the subject of freedom of association, and specifically that of lawyers. Following the amendment of the Advocates Act in 1993, the Sudanese Bar Association had been placed under the executive control of the Ministry of Labour. He understood that elections to the committee of the Association had had to be cancelled owing to the chairman's resignation on the grounds of

irregularities, and that no date for new elections had been set. Why had the Government taken the step of placing the Bar Association, which had previously been independent in accordance with the requirements of article 22, under the control of the Government? Would elections be held to replace the head of the Bar Association committee? And would steps be taken to ensure that they took place without outside interference?

83. Mr. EL MUFTI (Sudan) said that his delegation had done its best to respond to all allegations, refuting those which were untrue and reporting on the measures taken in connection with others. In reply to questions on the subject of compensation, he stressed the distinction between blood money, a special practice under Islamic law in cases of death or injury, and other compensation for violations of human rights. The two types of compensation were governed by different legal provisions and involved different procedures. A claim for compensation began with an application to the Minister of Justice, and if that application was not dealt with in a satisfactory manner within two months, the claimant could bring the matter before the courts. He regretted having no statistics of such cases to give the Committee and undertook to try to ensure their availability in future.

84. Replying to questions relating to the alleged ban on political activities, he explained that the term "political detainees" was used to describe anyone detained by the security police. The existence of political detainees did not mean that political activities were banned. Persons described as political detainees enjoyed better conditions of imprisonment than common criminals.

85. As to freedom of expression, he remarked that the compatibility of the restraints being applied in the Sudan with the provisions of article 19 of the Covenant depended on the interpretation given to the concepts of national security and public order. Efforts being made to protect the freedom of expression included the enactment of a new law, which provided more guarantees in that respect. On the question of radio and television, to speak of a government monopoly was not really correct; rather, it was a matter of the Sudan being a developing country where such activities had begun only very recently. Concerning freedom of movement, he remarked that difficulties in obtaining an exit visa certainly existed and were encountered not only by political opponents but also by members of government delegations. As detailed in paragraph 108 of the report, a number of opposition leaders had obtained exit visas and travelled abroad from Khartoum airport, some of them returning to the country later.

86. On the subject of minority languages, he said that Arabic and English were, respectively, the first and second official languages of the Sudan, a country where the number of local languages and dialects ran into the hundreds. Persons involved in court proceedings who did not understand Arabic or English were provided with an interpreter. Every state was free to use its own language for radio and television broadcasts and as the main teaching language in schools.

87. While it was true that the Advisory Council for Human Rights was presided over by the Minister of Justice and was not independent of the Government, and although its recommendations were not binding on the

Government, he could not recall any occasion when the Council's advice had been rejected. The reversal of the Government's decisions to deny admission to the Special Rapporteur on the human rights situation in the Sudan and to Amnesty International was the direct result of advice by the Council. There were also other human rights bodies which had no connection with the Government.

88. With regard to alleged dismissals of judges, he said that he was not aware of any such dismissals having taken place. Reference had been made to a committee set up in 1995. That committee was not concerned with the judiciary but with all persons removed from public office in the wake of the events of 1989, many of whom had since been reinstated. In reply to a question relating to non-Muslim judges, he said that he had no precise figures but thought that the number was far from proportionate to the non-Muslim population of the country. It should be remembered that the prolonged conflict in southern Sudan had created imbalances and inequalities not only in the courts but in the distribution of power as a whole. Efforts were being made to redress all those inequalities and to share the national wealth more equitably.

89. Replying to a question on arrests following street demonstrations, he said that the number of detainees was in fact less than 20. Student demonstrations were frequent and had little to do with political activities. As to allegations of ill-treatment, he offered to investigate any specific cases but did not think that being pursued in the street and pushed into a police van could be said to amount to torture. With regard to freedom of association of lawyers, he said that the Bar Association was not government-controlled in any way. As he understood it, the election to the committee had been cancelled because of a member's claim that cheating had taken place.

90. Mr. EL RADI (Sudan), replying to a question as to whether a woman could marry without her family's consent, said that despite the patriarchal system prevalent in the Sudan and the importance of the extended family, which meant that the father must be consulted on all important matters, a woman whose family refused to allow her to marry could bring the matter before the courts under a so-called "veto circular" in force since the early 1930s.

91. Reverting to the question concerning the number of judges from the south of the country, he said that he personally knew two southern judges in the Supreme Court. He would try to obtain precise figures and inform the Committee in writing. As to the elections to the Bar Association committee, there had been mutual accusations of malpractice and an application had been filed before the court. No decision had been taken as yet, but new elections were due to take place at some time in the future.

92. The CHAIRPERSON, thanking all members of the Sudanese delegation for their contribution, said that the second periodic report was a much more constructive document than the initial one. The delegation's evident desire to hear the views of Committee members was very welcome. She hoped that the various positive developments, of which the Fourteenth Constitutional Decree was a signal example, would be followed by still more positive developments in the future.

93. When replying to a question concerning the legal status of the Covenant, the delegation had stated that domestic legislation provided no excuse for failing to apply the Covenant or other international treaties to which Sudan was a party. How could that be reconciled with the fact that custom and the Shariah were the source of law in the Sudan? How, for example, could corporal punishment, which was contrary to article 7 of the Covenant, be compulsory under Shariah law? Similarly, while the Covenant did not prohibit the death penalty, it did require that capital punishment should not be applied in a manner contrary to the spirit of the Covenant. She failed to see how crucifixion, for example, could be compatible with that requirement. Likewise, and despite efforts to improve the situation, the status of women was clearly incompatible with the Covenant's provisions on equal rights. The law clearly needed to be changed in all respects.

94. As to the actual facts of the situation, the delegation had done its utmost to deny or minimize the numerous allegations made. Yet the consistent reports of abuses from so many sources - not only NGOs but also the Special Rapporteur on the Sudan, the thematic rapporteurs on disappearances, torture, executions, etc. - amounted to findings rather than mere allegations. While recognizing the Government's newly-found political will to redress the situation, she strongly urged it to go even further in bringing the domestic legislation into line with international standards.

95. The Committee had thus completed its consideration of the second periodic report of the Sudan. A new date for the submission of the third periodic report would be set at a later stage and communicated to the Sudanese Government.

96. Mr. MIRGHANI (Sudan) assured the Committee that all questions raised had been taken very seriously by his delegation. More detailed answers, including statistics where possible, would be sent to the Committee shortly. He committed himself personally to cooperate fully with all members and to respond positively to any request for information.

The meeting rose at 6.10 p.m.